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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,504	06/07/2001	Philip H. Burrus IV	EN11309	9312

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Intellectual Property
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EXAMINER

LASTRA, DANIEL

ART UNIT	PAPER NUMBER
	3622

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/876,504	BURRUS, PHILIP H.
Examiner	Art Unit	
DANIEL LASTRA	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 31 March 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-4 and 6-16 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-4 and 6-16 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

1. Claims 1-4 and 6-16 have been examined. Application 09/876,504 (ELECTRONIC COUPON AND CUSTOMER DATA ACQUISITION APPARATUS AND METHOD) has a filing date 06/07/2001.

Response to Amendment

2. In response to Non Final Rejection file 01/25/2005, the Applicant filed an Amendment on 03/31/2005, which amended claim 6 and 10.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz et al (U.S. 6,243,447) in view of Applicant's background of the specification.

As per claims 1 and 6, Swartz teaches:

An electronic savings system, the system comprising:

a portable electronic device having unique personal identification data stored therein (see Swartz column 7, lines 10-16; column 9, lines 30-37) and;

- a means of transmitting the unique personal identification data to a store (see Swartz column 7, lines 10-16; column 9, lines 30-40);

Swartz does not expressly teach wherein when the store receives the unique personal identification data, a store discount is applied to a plurality of specially marked store discounted items. However, Applicant's specification, background section admits that applying a store discount to a plurality of specially marked stored discounted items is well known. Applicant's background of the specification teaches in column 2, lines 1-10 "When the customer checks out, they typically first present their savings card to the clerk. The clerk scans the card into the register, a process that identifies the customer. After the groceries are totaled, the register subtracts the sale amounts applicable to all specially marked items. The receipt then lists the "pre-saving total", less the savings card savings, as the total due. The customer is instantly aware of the benefit of shopping with the card. Such card work as a win-win for all parties involved. For the customer, the card acts as a "super coupon" in that it offers discounts to a wide array of products without the hassle of carrying around many paper coupons". Also, Applicant's specification in page 4, lines 17-20 "In this embodiment, the phone works predominantly in the same manner that a savings card does...the stores identifies the customer by cellular telephone number". Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the Swartz portable device (i.e. customer's cellular phone) would transmit to a store's central computer the customer's personal identification (i.e. customer's cellular phone number; see Swartz column 7, lines 10-16) and purchase data which would be used by said store's central computer to adjust the discount given to particular or specially mark purchase products, as taught by Applicant's background of the specification. Swartz

portable device would act as a saving card, which would identify a customer and from said identification said customer would receive discounts to a wide variety of products based upon said customer's identification and shopping profile (see Swartz column 3, lines 35-40).

As per claim 2, Swartz teaches:

The system of claim 1, further comprising a simulated credit card swipe coupled to the portable electronic device (see Swartz column 10, lines 49-51).

As per claim 3, Swartz teaches:

The system of claim 1, teach wherein the portable electronic device comprises a cellular telephone and the unique personal identification data comprises a user's telephone number (see Swartz column 7, lines 10-17).

As per claim 4, Swartz teaches:

The system of claim 3 but fails to teach wherein the universal savings system comprises a discount card associated with a particular store. However, Applicant's background of the invention teaches a discount card associated with a particular store (see Applicant's specification page 2, lines 17-22). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that the Swartz portable device would transmit to a store's central computer the customer's personal identification (i.e. customer's cellular phone number) and purchase data which would be used by said store's central computer to adjust the discount given to particular or specially mark purchase products, as taught by Applicant's specification. Swartz portable device would act as a saving card, which would identify a customer and

from said identification said customer would receive discounts to a wide variety of products based upon said customer's identification and shopping profile (see Swartz column 3, lines 35-40).

As per claim 7, Swartz teaches:

The method of claim 6, further comprising the steps of:

- a. providing a central computer (see Swartz figure 3, item 73);
- b. transmitting the unique personal identification data to the central computer

(see Swartz column 9, lines 30-37) and

- c. cross referencing the unique personal identification data with a stored data profile (see Swartz column 11, lines 20-29).

As per claim 8, Swartz teaches:

The method of claim 7, further comprising the steps of:

- a. transmitting product data from the store register to the central computer (see Swartz column 10, line 40 – column 11, line 29); and
- b. storing the product data with a cross-reference to the unique personal identification data (see Swartz column 11, lines 20-29).

As per claim 9, Swartz teaches:

The method of claim 7, wherein the product data is used for inventory management (see Swartz column 4, lines 21-26).

As per claim 10, Swartz teaches:

A method of acquiring customer data, the method comprising the steps of:

- a. providing a store register capable having unique store identification data stored within, wherein the store register comprises a means of transmitting the unique store identification data (see Swartz column 7, lines 30-40);
- b. providing a personal electronic device capable of receiving the unique store identification data (see Swartz column 9, lines 30-38);
- c. transmitting the unique store identification data from the store register to the portable electronic device (see Swartz column 9, lines 30-38); and
- d. Swartz fails to teach applying a store discount to the price of all specially marked, store discounted items upon successful transmission of the unique store identification data. However, the same rejection applied to claim 1 is applied to claim 10.

As per claim 11, Swartz teaches:

The method of claim 10, further comprising the steps of:

- a. transmitting the unique store identification data from the personal electronic device to a remote computer (see Swartz column 9, lines 30-37);
- b. transmitting customer data from the personal electronic device to a remote computer (see Swartz column 9, line 46 – column 10, line 24); and
- c. transmitting product data from the personal electronic device to a remote computer (see Swartz column 9, line 46 – column 10, line 40).

As per claim 12, Swartz teaches:

The method of claim 11, further comprising the steps of:

- a. processing the unique store identification data, the customer data and the product data (see Swartz column 10, line 40 – column 11, line 28); and

b. producing a report with the unique store identification data, the customer data and the product data listed in an organized format (see Swartz column 3, lines 35-38; column 11, lines 20-27).

As per claim 13, Swartz teaches:

The method of claim 12, wherein the personal electronic device comprises a cellular telephone (see Swartz column 6, lines 20-25).

As per claim 14, Swartz teaches:

The method of claim 13, teaches wherein the store register is linked to at least one other store register via a network (see Swartz figure 3).

As per claim 15, Swartz teaches:

The method of claim 14, further comprising the step of distributing advertising literature based upon the report (see Swartz column 4, lines 21-32).

As per claim 16, Swartz teaches:

The method of claim 14, further comprising the step of using the report for inventory management (see Swartz column 4, lines 20-26).

Response to Arguments

4. Applicant's arguments, filed 03/31/05, with respect to the rejection(s) of claim(s) 1-4 and 6-16 under Swart in view of Freeman have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Swartz in view of Applicant's background of the specification.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 571-272-6724. The Right fax number of the Examiner is 571-273-6720.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra

June 23, 2005


RAQUEL ALVAREZ
PRIMARY EXAMINER